

Appl. No. 10/050,520
Amdt. A, dated Dec. 17, 2003
Reply to Office Action of Dec. 9, 2003

REMARKS / ARGUMENTS

By the above amendment, Applicant has rewritten all claims to define the invention more particularly and distinctly to overcome the technical rejections and define the invention patentably over the prior art.

The Rejection Of Claim 39 On DeJonge is Overcome As The Rewritten Claim Recites Novel Physical Features New Dependent Claims Added

The last OA rejected independent claim 39 on DeJonge. Claim 39 has been rewritten as new independent claim 59 to define patentability over this reference and new dependent claims 60-71 have been added.

Applicant requests reconsideration of this rejection, as now applicable to claim 59 and to claims 60-71 for the following reasons:

- (1) The rotatable member in the applicant's device is a sheet material which is formed into a continuous loop. The rotatable member in DeJonge is produced by molding or casting as shown in the figures and the disclosure text (column 4, lines 17-19).
- (2) There is no suggestion in DeJonge that the rotatable member could be produced from a sheet material. Furthermore, given the structural and operational considerations of the rotatable member in DeJonge, it is not seen how a deformable sheet member could be substituted and still work in the manner described.
- (3) New dependent claims 60-71 incorporate all the subject matter of claim 59 and add additional subject matter which makes them patentable over this reference.

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**The Rejection Of Claims 40-46, 50-52, 55, And 57-58 On Hoffman Are Overcome
And The Rejections Of Claims 47-49, 53 And 56 On Hoffman To Baustin
And Of Claim 54 On Hoffman To Raming Are Overcome
As The Rewritten Claims Recite Novel Physical Features**

The last OA rejected independent claim 40 and dependent claims 41-46, 50-52, 55, and 57-58 on Hoffman, and dependent claims 47-49, 53, and 56 on Hoffman to Baustin as well as dependent claim 54 on Hoffman to Raming. Claim 40 has been rewritten as new independent claim 72 to define patentability over this reference. Claims 41-58 have been rewritten as new dependent claims 73-83 to define patentability over these references. New dependent claims 60-71 have been added and define patentability over these references.

Applicant requests reconsideration of this rejection, as now applicable to claims 60-83 for the following reasons:

(1) The movable member in the applicant's device is a sheet material forming a continuous loop. The limitation of "a continuous loop member" has previously overcome the rejection on Hoffman (claim 39, now canceled). The applicant claims a continuous loop member (claim 59 b. and 72 b.).

(2) New dependent claims 60-71 and 73-83 incorporate all the subject matter of their respective independent claims and add additional subject matter which makes them patentable over the references.

**The Novel Physical Features Of The New Claims Produce
New And Unexpected Results And Hence Are Unobvious
And Patentable Over These References Under § 103.**

Also applicant submits that the novel physical features of the new claims are also unobvious and hence patentable under § 103 since they produce new and unexpected results over Hoffman to Baustin and Hoffman to Raming.

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These new and unexpected results are a simpler, safer and lower cost device than the reference. Applicant's device permits the use of a deformable sheet continuous loop member. This provides greater safety because of the relative, linked (to the container) permanence of applicant's loop member, which is not as easily removed as the Hoffman split ring. The applicant's loop can be produced from thin low cost sheet or roll stock materials such as paper and plastic film, which need not be molded. An advantage of such lightweight material being formed into a loop is that it permits the use of comparable material for the band support, providing further savings. The applicant's device can fill a prescription with fewer components and without loss of capability because it allows a prescription label to serve as a band support. An additional advantage is that the mounted loop can be held sufficiently secure at a plurality of positions to obviate the need for a tapered flange structure like the one required by Hoffman to control axial and rotational displacement of a split ring. Capability is therefore further enhanced because applicant's device can be used with most existing cylindrical medication containers. A still further advantage of applicant's device is that application of both the loop and band support is easily automated by adaptation of label application technology in widespread use today. Applicant's device is therefore vastly superior to that of Hoffman.

Non-Applied References Do Not Show Applicant's Invention

The last OA cited the following as prior art of record and not relied upon.

US-2,450,949 Gattuccio et al.
US-3,818,858 Kramer et al.

(1) The applicant has reviewed the references, but they do not show the applicant's invention or render it obvious.

Conclusion

For all of the above reasons, applicant submits that the claims are now in proper form, and that the claims all define patentability over the prior art. Therefore the applicant submits that this application is now in condition for allowance, which action is respectfully solicited.

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Conditional Request For Constructive Assistance

Applicant has amended the claims of this application so that they are proper and define novel structure which is also unobvious. If, for any reason this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. § 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,

Harry Giewercer


Applicant For So

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CERTIFICATE OF FACSIMILE TRANSMISSION

I certify that on the date below I will fax this communication, and
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Date: Dec 19, 2003 No. of pages: 7Inventor's Signature: 